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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/694,268	10/24/2000	SEIJI MISHIMA	35.C14356	2529
5514	7590	07/27/2004	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			TUGBANG, ANTHONY D	
			ART UNIT	PAPER NUMBER
			3729	

DATE MAILED: 07/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/694,268

Applicant(s)

MISHIMA, SEIJI

Examiner

A. Dexter Tugbang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 29,30,41,42,49 and 50 is/are pending in the application.
- 4a) Of the above claim(s) 49 and 50 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 29,30,41 and 42 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/26/04 has been entered.

### ***Election/Restrictions***

2. Applicant's election with traverse of the invention of Group I, Claims 29, 30, 41 and 42, in the reply filed on 4/26/04 is acknowledged. The traversal is on the ground(s) that the inventions are not distinct because Groups I and II are not species and are directed to products of inventions. This is not found persuasive because while the scope of both groups of inventions are directed to a process of making, the body of each group does require specific products as each product can be defined as a materially different species, one as a single electron-emitting device, and one with a plurality of electron emitting devices. In the instant case, Group I does not require any plurality of electron-emitting devices or any light-emitting member, as required by Group II. Applicants have diverged from the original claimed invention by with the limitations added to Claim 49, i.e. Group II, in the amendment filed 11/17/03. The restriction requirement was based upon this divergence and the requirement is still deemed proper and is therefore made FINAL.

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3. Claims 49 and 50 have withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 4/26/04.

#### ***Claim Objections***

4. Claim 29 is objected to because of the following informalities: the phrase of “a energization” (1<sup>st</sup> occurrence on line 16) should be replaced with the phrase of --an activation--, as this would more appropriately agree with the terminology used in the specification (page 20, lines 14-15). Appropriate correction is required.

#### ***Allowable Subject Matter***

5. Claims 29, 30, 41 and 42 are allowed.

#### ***Conclusion***

6. This application is in condition for allowance except for the following formal matters.  
Cancellation of Claims 49 and 50 drawn to an invention nonelected with traverse in the reply filed on 4/26/04, (37 CFR 1.144) See MPEP § 821.01.

The suggested change to Claim 29 above.

Prosecution on the merits is closed in accordance with the practice under *Ex parte* Quayle, 1935 C.D. 11, 453 O.G. 213.

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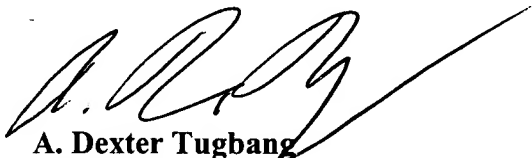
A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to A. Dexter Tugbang whose telephone number is 703-308-7599.

The examiner can normally be reached on Monday - Friday 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 703-308-1789. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**A. Dexter Tugbang**  
**Primary Examiner**  
**Art Unit 3729**

July 23, 2004